

15
THE

CHARTER

OF THE

KENSINGTON AND FRANKFORD

PLANK ROAD COMPANY.

APPROVED FEBRUARY 13, 1853.



PHILADELPHIA:

QUINN & SWAN, PRINTERS, THIRD AND MARKET STS.

1853.



Digitized by the Internet Archive
in 2018 with funding from

This project is made possible by a grant from the Institute of Museum and Library Services as administered by the Pennsylvania Department of Education through the Office of Commonwealth Libraries

A N A C T

TO INCORPORATE THE

KENSINGTON & FRANKFORD PLANK ROAD CO.

SECTION 1. *Be it enacted by the Senate and House of Representatives, of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That* Levi Foulkrod, Joseph Deal, William J. Crans, Isaac W. Norris, John W. Kester, Michael Bouvier, Mahlon Gillingham, Jeremiah Vanbrunt, Emanuel Peters, William Heiss, Daniel M. Fox, Richardson L. Wright, Thomas Goodwin, John Kessler, James Flanagan, William H. Witte, Charles H. Garden, R. W. Evans, R. D. Fell, Thomas Wiggins, John McEntyre, Edward Waln, William Cooper, Minor Rodgers, Joseph D. Thornton, John Chipman, James Martin, Hugh Clark, John Deal, Walter Knight, A. R. Calhoun, John McMullen and Peter Rambo, or any six of them, be, and they are hereby appointed Commissioners, to open books and receive subscriptions, and organize a Company, by the name and style of "The Kensington and Frankford Plank Road Company," with power to construct a Plank Road, of two ways of eight feet each, commencing at the Northern boundary line of the District of Kensington, in Philadelphia County, thence Northeasterly along the line of the said Frankford Avenue to Nicetown Lane, the Southern boundary of Frankford Borough. The Capital Stock of which said Company shall consist of one thousand shares of twenty dollars each. *Provided, That the County of Philadelphia shall not be liable for any damages on account of the*

opening of said avenue for the use of the Plank Road Company. And *provided further*, That whenever hereafter any incorporated district through which this road may pass, shall deem it necessary to curb and pave the said Frankford or Aramingo Avenue, the Commissioners of such district shall have full power and authority to remove the planks from said road as far as it may be necessary, to enable them to curb and pave said avenue, but no further.

SECTION 2. That after said Plank Road, or any part of it exceeding one mile in length, shall have been finished, on the application of said Company, or any one of the Stockholders thereof, or any person owning property along the line thereof, the Court of Common Pleas shall appoint Commissioners, whose duty it shall be to ascertain and report to the said Court, the actual cost of said road, including culverts and grading, and all proper expenditures incurred by said Company, with interest to the time of making such report, and the residue; also, the names of all the owners of property along the line thereof, together with a plan or plot, showing the extent of the front of each property on the said avenue. Said Commissioners shall give such public notice of their appointment, and the report filed by them, as the said Court shall direct, the expenses of all of which shall be paid by said Company.

SECTION 3. That any person interested either in the stock of the said Company, or in any property along the line of said avenue, may file exceptions to said report within thirty days after it is made, whereupon the said Court shall make such order as may be necessary, in order that the cost of said Plank Road, and the names of all the owners of property, shall correctly appear upon record.

SECTION 4. That whenever at any time within four months after said report shall have been finally confirmed, for want of exceptions filed, as aforesaid, or after final order made by said Court on said exceptions, a majority of the owners of property ascertained, as aforesaid, shall file with the Prothonotary of said Court, their written agreement that the expense of the said Plank Road, shall be assessed against, and be a charge upon the property along the line thereof. The said Court shall make an order or decree, declaring the said Plank Road to be a public and free Highway, whereupon, all right of said

Company to charge toll thereon or therefor, shall forever cease, and the said Company shall thereupon have a right to collect from the owners of property, along the line of said road, the cost of the construction of said Plank Road, as ascertained as aforesaid, with interest in proportion to the extent of their respective fronts on the said road: *Provided*, That said assessments, or any part thereof, may be paid either by surrendering to the Company their own stock to be cancelled, which stock shall be received in full, to an amount equal to the amount subscribed thereon, or by assigning or releasing to said Company, any debt or liability due by them.

SECTION 5. That if any owner or owners of property, along the line of road so declared a public Highway, shall fail to pay the amount payable by him or them, within three months after such order or decree shall have been made as aforesaid, the said Company, within three months thereafter, may file in the Office of the Prothonotary of the Court in said County, having jurisdiction of claims of like amount, a claim or claims against each and every property, as divided by the report of the Commissioners, setting forth the name of the owner, as ascertained by such Commissioners, the extent of the front, and the amount of the claim; which said claim or claims, shall be a lien on the lot or tract of ground, fronting on the road as aforesaid, the extent and description whereof, may afterwards be ascertained, on the application of any party interested, in the same manner as by the fifth and following sections of the Act of Assembly, entitled "An Act relating to the Lien of Mechanics and others upon Buildings," it is provided that the extent and description of lots, subject to mechanics' liens, may in certain cases be ascertained, on what said liens writs of scire facias may issue, and other proceedings had for the enforcement thereof, with interest and costs of suit, similar to the proceedings by which mechanics' liens are now enforced in the County of Philadelphia aforesaid: *Provided*, That in every case of a lien filed as aforesaid, the said Company shall have a right to collect the further sum of five per cent. on the amount of such claims.

SECTION 6. That after the next meeting of Officers, and at each subsequent election, after the said road shall have been declared a free public road as aforesaid, the President and other Officers of the Company and two Managers of the same, shall be chosen by the

property owners. Each person interested in any property, on which the assessment aforesaid shall have been previously paid, being entitled to one vote. And the expense of keeping up said road, shall devolve on the municipal authorities of the districts, townships and boroughs respectively, that is to say, the said Company shall cause all necessary repairs to be done, and shall have a right at the end of each year, to recover from each of the said municipal bodies, the proportion of the expense of keeping in good order and repair, the part of the road within their jurisdictions respectively: *Provided always*, That if the Company shall at any time neglect to keep said road, or any part thereof, in good repair, it shall be lawful for, and the duty of said municipal bodies respectively to do so: *Provided*, That if said road is not made a free road, under the provisions of this Act, within a year after it shall have been constructed, the County of Philadelphia shall at all times have the right to make it free, by refunding or paying to such Company, the amount of the cost of said road, and the repair thereof, with legal interest.

SECTION 7. That said Company shall select a competent Engineer or Surveyor, to fix the grades of said road, which grades shall be submitted to the Court of Quarter Sessions, of the County, for confirmation and approval, which said grades shall be permanently fixed; *subject nevertheless*, to the restrictions of the Act, et cetera, passed January twenty-six, one thousand eight hundred and forty-nine, relating to Turnpike and Plank Roads.

W. P. SCHELL,

Speaker of the House of Representatives.

THOMAS CARSON,

Speaker of the Senate.

APPROVED the thirteenth day of February, A. D. one thousand eight hundred and fifty-three.

WILLIAM BIGLER.

SECRETARY'S OFFICE.

Pennsylvania, ss.

I DO HEREBY CERTIFY, that the foregoing and annexed is a true and correct copy of the original Act of the General Assembly of this Commonwealth, as the same remains on file in this Office.



IN TESTIMONY WHEREOF, I have hereunto set my hand, and caused the seal of the Secretary's Office to be affixed at Harrisburg, this twenty-fifth day of February, A. D. one thousand eight hundred and fifty-three.

F. W. HUGHES,

Secretary of the Commonwealth.

AN ACT

Regulating Turnpike and Plank Road Companies.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That* whenever a special act of the general assembly shall be passed, authorizing the incorporation of a company for the construction of a turnpike road, or for the construction of a plank road, within this commonwealth, the commissioners named in such act, or any five of them, shall have power to open books for receiving subscriptions to the capital stock of such company, at such time or times, and such place or places as they may deem expedient, after having given at least twenty days' previous notice in one or more newspapers published, or having circulation within the county where books of subscription are to be opened; at which times and places two or more of the said commissioners shall attend, and permit and suffer all persons of lawful age, who shall offer to subscribe in such books, in their own names, or in the names of any other person who shall duly authorize the same, for any number of shares of stock; and the said books shall be kept open, respectively, for the purpose aforesaid, at least six hours in every juridical day, for the space of five days, or until the said books shall have the whole number of shares authorized by such special act, therein subscribed; and if, at the expiration of the said five days, the books aforesaid shall not have the said number of shares authorized as aforesaid therein subscribed, the commissioners respectively may adjourn from time to time, and transfer the books from place to place, until the whole number of shares shall be subscribed; of which adjournment and transfer, the commissioners aforesaid shall give such public notice as the occasion may require, and when the whole number of shares subscribed shall amount to the number authorized as aforesaid, the same

shall be closed : *Provided always*, That every person offering to subscribe in such books, in his own or any other name, shall at the time of subscribing, pay to the attending commissioners any sum not less than one dollar, nor more than five dollars, (as shall be fixed and determined by said commissioners, previously to the opening of books) for every share to be subscribed, out of which shall be defrayed such incidental charges and expenses, as may be necessary for taking such subscription, and the remainder shall be paid to the treasurer of the corporation, as soon as the same shall be organized, and the officers chosen as hereinafter mentioned.

SECTION 2. When twenty persons, or more, shall have subscribed ten per centum on the capital stock provided for by such special act of assembly, the said commissioners respectively may, or when the whole number of shares authorized as aforesaid shall be subscribed, they shall certify under their hands and seals the names of the subscribers, and the number of shares subscribed by each, to the governor of this commonwealth, whereupon it shall and may be lawful for the governor, by letters patent under his hand and seal of state, to create and erect the subscribers; and if the subscriptions be not full at the time, then those who shall afterwards subscribe to the number aforesaid, into one body politic and corporate, in deed and in law, by the name, style and title designated by such special act; and by such name the said subscribers shall have perpetual succession, and all privileges and franchises incident to a corporation, and shall be capable of taking and holding the capital stock, and the increase and profits thereof, and of enlarging the same by new subscription, in such manner and form as they shall think proper, if such enlargement shall be found necessary to fulfil the intent of such special act; and of purchasing, taking and holding to them and their successors and assigns, and of selling, transferring and conveying, in fee simple, or for any less estate, all such lands, tenements and hereditaments and estate, real and personal, as shall be necessary to them in the prosecution of their works; and of suing and being sued, and of doing all and every other matter and thing which a corporation or body politic may lawfully do.

SECTION 3. That the commissioners aforesaid, as soon as conveniently may be after the said letters shall be sealed and obtained,

shall give notice in the manner provided for in the first section of this act, of the time and place by them appointed; at which time and place the said subscribers shall proceed to organize such corporation, and shall choose, by a majority of votes of the subscribers by ballot, to be delivered in person, or by proxy duly authorized, one president, five managers and one treasurer, and such other officers as may be necessary to conduct the business of such company, until the first Monday of November next ensuing, and until such other officers shall be chosen; and shall and may make such by-laws, orders and regulations, not inconsistent with the constitution and laws of the United States and of this commonwealth, as shall be necessary for the proper management of the affairs of such company: *Provided always*, That each stockholder shall be entitled to one vote for each share of stock not exceeding ten; and one vote for every five shares exceeding that number: *And provided also*, That no stockholder, whether the original subscriber or assignee, shall be entitled to vote at any election or meeting of said company, unless the whole sum due and payable on the share or shares by him or her held at the time of such election, shall have been fully paid and discharged.

SECTION 4. The stockholders of such company shall meet on the first Monday of November in every year, at such place as shall be fixed by their by-laws, for the purpose of choosing officers as aforesaid for the ensuing year, and at such other times as they shall be summoned by the managers, in such manner and form as shall be prescribed by their by-laws; at which annual or special meetings, they shall have full power and authority to make, alter or repeal, by a majority of votes, all such by-laws, rules, orders and regulations made as aforesaid, and to do and perform any corporate act.

SECTION 5. That the president and directors of such company, first chosen, shall procure certificates or evidences of stock, for all the shares of the said company, and shall deliver one or more certificates or evidences, signed by the president, countersigned by the treasurer, and sealed with the common seal of the corporation, to each person or party entitled to receive the same, according to the number of shares by him, her or them respectively subscribed or held; which certificates or evidences of stock, shall be transferable at the pleasure of the holder, in a suitable book or books, to be kept by the company

for that purpose, in person or by attorney duly authorized, in the presence of the president or treasurer, subject, however, to all payments due, or to become due thereon; and the assignee or party to whom the same shall have been so transferred, shall be a member of said corporation, and have and enjoy all the immunities, privileges and franchises, and be subject to all the liabilities, conditions and penalties incident thereto, in the same manner as the original subscriber would have been: *Provided*, That no certificate shall be transferred, so long as the holder thereof is indebted to said company, unless the board of directors shall consent thereto.

SECTION 6. It shall be lawful for the said president and managers, their superintendents, surveyors, engineers, artists and chain bearers, to enter in and upon all and every the lands, tenements and enclosures in, through and over which such intended turnpike road or plank road may be thought proper to pass, and for that purpose to examine the ground and quarries of stone and gravel, and other materials that may be necessary in making and constructing such road, and to cut or open such drains through the same, as they shall judge necessary to drain the water from the turnpike road, or plank road, with the same rights and under the same penalties as the supervisors of highways; and the said road shall be constructed between the points named in the special act incorporating such company.

SECTION 7. The president and managers of such corporation three of whom shall, for that purpose, be a quorum, shall keep minutes of all their proceedings, fairly entered in a book to be kept for that purpose, and shall have full power and authority to appoint, agree and contract with such engineers, superintendents, artists, laborers and other persons as they may think necessary to make and construct such road, and collect the tolls hereinafter authorized, and fix their compensation, to ascertain the times, manner and proportions in which the stockholders shall pay the amount of their respective shares in order to carry on their work, to draw orders on the treasurer for all debts contracted by them, which orders shall be signed by the president, or in his absence by a majority of the managers, and attested by their secretary, and to do and transact all other acts, matters or things, as by the by-laws, orders and regulations of such company shall be entrusted to them.

SECTION 8. If any stockholder, whether original subscriber or assignee, after twenty days' notice as aforesaid, of the time and place appointed for the payment of any instalment or proportion of the capital stock, shall neglect to pay such proportion at the place appointed, for the space of thirty days after the time appointed for the payment thereof, any such stockholder shall, in addition to the instalment so called for, pay at the rate of one per centum per month, for every delay of such payment; and if the same and additional penalty shall become equal to the sum before paid in part on account of such share, the same may be forfeited by and to the said company, and may be sold by them for such price as may be obtained therefor; or in default of payment of any stockholders of such instalments as aforesaid, for the space of sixty days aforesaid, the president and managers may, at their election, cause suit to be brought in the same manner as debts of a like amount are now recoverable, for the recovery of the same, together with the penalties aforesaid.

SECTION 9. It may be lawful for the president and managers of such company, incorporated as aforesaid, by and with their superintendents, engineers, artists, workmen, laborers, their tools and instruments, carts, wagons, and other carriages, and beasts of draught or burden, to enter in and upon the lands contiguous and near to which the said road shall be made or constructed, first giving notice of their intentions to the occupiers thereof, and doing as little damage thereto as possible, and making amends for damages upon a reasonable and equitable agreement by the parties; or if they cannot agree thereupon, a just and equitable assessment to be made upon oath or affirmation by three disinterested freeholders, or any two of them, two of whom shall be mutually chosen by the parties, and said two thus chosen, shall choose a third; or if either party, upon due notice, shall neglect or refuse to join in the choice, then to be chosen by a justice of the peace of the county wherein the land lies, who shall not be interested therein, and upon the tender of the assessed value, to dig and carry away any timber, stone, sand, earth, or other materials necessary or suitable for making said road: *Provided*, That no part of this act shall authorize the taking of any property by such company, unless the same be previously paid for, or adequate security given to the owners for the payment thereof.

SECTION 10. The president and managers of every such company, incorporated as aforesaid, shall keep fair and just accounts, as well of all moneys received by them, as of those paid out and expended in the prosecution of the work; and shall, at least once in every year, submit their books and accounts to a general meeting of the stockholders; and whenever it shall be ascertained that the capital stock of such company is not sufficient to complete their road, according to the true intent and meaning of this act, it shall and may be lawful for the president and managers, at a stated or special meeting, convened according to the provisions of this act or their own by-laws, to increase the number of shares to such an extent as they shall deem sufficient to accomplish the work, and to demand and receive the moneys subscribed for such additional shares, in like manner and under like penalties, as are provided by this act in the case of the original subscriptions.

SECTION 11. The president and managers of such company shall have power to erect good and sufficient bridges over all the streams of water crossed by their road, whenever the same shall be found necessary; and shall cause a road, if a turnpike, to be laid out, not exceeding fifty feet in width, and cause at least eighteen feet of said width to be made an artificial road of wood, stone, gravel, or other proper and convenient materials, such as the nature of the ground may require and will afford, to be constructed in such manner as will admit an even surface, and so nearly level in its progress, that it shall in no place raise or fall more than will form an angle of four degrees from a horizontal line; and, if a plank road, the same shall be opened of any width, not exceeding forty feet, and shall be graded in such manner as may be necessary for either a single or double track, as may be determined upon by the president and managers of the said company, each track being not less than eight feet in width, and so nearly level in its progress, that it shall in no place raise or fall more than will form an angle of three degrees with a horizontal line: *Provided*, That if any part of the ground on the route of said road shall be so hard and compact, as to make a good road without any covering of wood, gravel, stone, slate, or other hard substance, the said president and managers are hereby authorized to construct such part of said road without any such covering, and shall forever maintain and keep the same in good repair: *Provided*, That in all

deep cuts the said road need not be of greater width on the surface than thirty feet : *And provided*, That said bridges shall not be constructed so as to obstruct the navigation of any stream declared a public highway.

SECTION 12. Whenever such company shall have finished five miles or more of road, the president thereof may give notice to the Governor, who shall appoint forthwith three skilful, judicious and disinterested persons, to view and examine the same, and report, on oath or affirmation, to him, whether the said road is so far executed in a competent and workmanlike manner, according to the true intent and meaning of this act ; and if their report shall be in the affirmative, then the Governor shall, by license under his hand and the seal of the state, permit and suffer said company to erect and fix such and so many gates upon and across the said road, as will be necessary and sufficient to collect from all persons otherwise than on foot, the same tolls as hereinafter authorized and granted.

SECTION 13. When such company is licensed in manner aforesaid, it shall and may be lawful for them to appoint such and so many toll-gatherers as they shall think proper, to collect and receive of and from all and every person or persons using the said road, the toll and rates hereinafter mentioned ; and to stop any person riding, leading, or driving any horses, cattle, hogs, sheep, coach, coaches, sulkey, chair, chaise, phaeton, cart, wagon, wain, sleigh, sled, or any other carriage of burden or pleasure, from passing through the said gate until they shall respectively have paid the same : that is to say, for every five miles in length of the said road completed and licensed as aforesaid, the following sums of money, and so in proportion for any lesser distance, or for any greater or lesser number of sheep, hogs, or cattle, to wit :—For every score of hogs five cents ; for every score of sheep five cents ; for every score of cattle ten cents ; for every horse and his rider, or led horse, three cents ; for every sulkey, chair or chaise, with one horse and two wheels, six cents ; with two horses nine cents ; for every chariot, coach, phaeton or dearborn, with one horse and four wheels, ten cents ; for every coach, phaeton or chaise, with two horses and four wheels, twelve cents ; for either of the carriages last mentioned, with four horses, twenty cents ; for every other carriage of pleasure, under whatever name it may go, the like

sums, according to the number of wheels and horses drawing the same; for every stage wagon with two horses, twelve cents; for every such wagon with four horses, twenty cents; for every sleigh, three cents for each horse drawing the same; and for every sled, two cents for each horse drawing the same; for every cart or wagon, whose wheels shall be less than four inches, four cents for each horse drawing the same; and for every cart or wagon, whose wheels shall be four inches, and not exceeding seven inches, two cents for every horse drawing the same; for every cart or wagon, the breadth of whose wheels shall be more than seven inches, one cent for every horse drawing the same; and if any person or persons shall represent to the said company, or any of their officers, that he, she, or they, have travelled a less distance than he, she, or they have actually travelled along said road, with intent to defraud said company of its toll, or any part thereof, such person or persons shall, for every such offence, forfeit and pay to the use of said company the sum of five dollars; and if any toll-gatherer shall demand and receive toll for a greater distance than the person of whom such toll is demanded shall have travelled along said turnpike road, or plank road, or shall demand and receive greater toll from any person or persons than such toll-gatherer is authorized to demand and receive by virtue of this act, such toll-gatherer shall forfeit and pay the sum of five dollars for every such offence, to the supervisors of the township in which the forfeiture is incurred, to be expended in repairing township roads, and for the payment of which the said company shall be responsible; and all such penalties and forfeitures shall be recoverable, with costs of suit, before any justice of the peace of the county in which the offence is committed: *Provided*, That no toll shall be demanded from any person or persons passing and repassing from one part of his, her, or their farm, to any other part of the same; and all persons with their vehicles or horses, going to or from funerals, or places of public worship, or of military trainings or elections, shall be exempt from the payment of toll, when travelling on such turnpike road.

SECTION 14. If such company shall neglect or refuse to keep their road in good travelling order and repair for the space of thirty days, and information thereof shall be given under oath or affirmation to any justice of the peace of the neighborhood and county, designating particularly where and in what respect said road is defective, such

justice shall issue a precept to any constable of the county, requiring him to notify the gate-keeper nearest whose gate the part or parts of the road complained of is situate, that on a certain day and at a certain hour therein mentioned, not less than three nor more than six days thereafter, three freeholders will be chosen at his office to hold an inquest to inquire into the truth of the matters specified in said information, an attested copy of which shall be furnished by said justice to said gate-keeper, at the time of serving said notice.

SECTION 15. The three freeholders mentioned in the preceding section shall be chosen as follows:—If the gate-keeper, or any other officer or agent of the company, and the informant, shall attend at the time and place of choosing, they shall commence with the complainant, and nominate alternately to the justice a list of nine freeholders of the neighborhood, from which list the complainant and the officer or agent of the company, shall alternately strike out a name until three names are left, which three shall be the persons chosen to hold said inquest. Should either party be unrepresented at the time of choosing said freeholders, the justice shall act for him or them, and should both parties be absent, the justice shall appoint three disinterested freeholders to form said inquest.

SECTION 16. The inquest thus chosen shall, after having been duly sworn or affirmed, proceed to view the parts of the road complained of, and shall report to the said justice, in writing, under their hands and seals, or the hands and seals of a majority of them, within five days after said view, whether the said road be out of order and repair, contrary to the true intent and meaning of this act, and if so found, the said justice shall adjudge the said company to pay a fine of not less than twenty-five nor more than fifty dollars, at his discretion; one-half thereof for the use of supervisors of the roads in the township in which the portion of the road so found defective is situate: *Provided*, That the said company shall have the right of appealing, within twenty days after judgment, to the court of common pleas of the proper county, from the finding of said inquest, and the judgment of the justice thereon, as in other cases: *And provided further*, That no proceedings shall be commenced or prosecuted under the last three sections of this act, unless the informant, or some other person shall have given twenty days' previous notice, in writing, to the gate-keeper nearest to whose gate the part or parts of the road

complained of is situate, specifying particularly the part or parts of the road alleged to be out of repair, and the nature of the defect alleged, and notifying him that unless the proper repairs be made in thirty days after the service of the notice, proceedings will be commenced before a justice and three freeholders.

SECTION 17. Should the said company not appeal from the finding of the said inquest, and the judgement of the justice thereon, and continue to neglect and refuse to repair the part or parts of the road thus found out of repair, new proceedings may be commenced and prosecuted against said company for such neglect or refusal; and should said parts of said road continue out of repair until the holding of the next general court of quarter sessions for the proper county, it shall be the duty of the said justice to certify and send copies of the finding of the said inquests, and the judgments thereon, to the judges of the said court; and the said judges shall thereupon cause process to issue, and bring in the body or bodies of the person or persons entrusted by the company with the care and superintendence of such part of the said road as shall be so found defective, and shall proceed thereon as in cases of supervisors of highways for neglect of their duty; and if the persons entrusted by the said company as aforesaid, shall be convicted of the offence by the said inquisition charged, the said court shall give judgment according to the nature and aggravation of the neglect, as according to right and justice would be proper in the case of supervisors of the highways neglecting their duties; and the fines and penalties so to be imposed, shall be recovered in the said court, and shall be paid to the supervisors of the highways of the township wherein the offence was committed, to be applied to repairing the public roads within such township; and like proceedings may be instituted from time to time, until the said road is put in proper repair.

SECTION 18. In all cases of complaint made, or suit instituted, under the provisions of this act, against any corporation, if the complainant shall fail to sustain his complaint, or the plaintiff to sustain his suit, as the case may be, the corporation shall be entitled to recover costs as in other cases, from the complainant or plaintiff, as the case may be; and in all cases when any corporation which may have been chartered under and subject to the provisions of this act, shall

be adjudged to pay any penalty, or the costs of any proceedings authorized by this act, the party, plaintiff, or complainant, shall have all the remedies for recovering of the same, with costs, against the said corporation, that are provided for the recovery of debts or judgments of like amount in other cases; and if the said corporation shall fail to make payment in any case within twenty days after final adjudication, the court of common pleas of the proper county, on application of the plaintiff, or some other person on his behalf, shall direct sequestration, and appoint a sequestrator, who shall have like powers, and be subject to all the regulations and requirements provided in the seventy-third and seventy-fourth sections of an act of the general assembly of this commonwealth, entitled "An Act relating to executions," passed June 16, 1836 : *Provided*, That where the judgment is final before the justice, or is not appealed from, as provided in this act, the complainant, before proceeding to sequestration, shall file in the court of common pleas of the proper county, a transcript of the proceedings and judgment before the justice, which transcript shall be entered of record in the said court, as under existing laws for the filing and entering of transcripts of judgments in other cases; and from such filing and entering, shall have the effect of a judgment originally entered in the said court.

SECTION 19. If any person or persons whosoever, owning, riding in, or driving any, sulkey, chair, chaise, phaeton, cart, wagon, sleigh, sled, or other carriage of burden or pleasure, riding or leading any horse, mule or gelding, or driving any hogs, sheep, or other cattle, shall therewith pass through any private gates or bars, or along or over any private passage way or other ground near to, or adjoining any gate erected, or which shall be erected in pursuance of this act, with an intent to defraud the company and avoid the payment of the toll or duty for passing through any such gate, or if any person or persons shall, with such intent, take off, or cause to be taken off, any horse, mare or gelding, or other cattle from any sulkey, chair, chaise, phaeton, cart, wagon, sleigh, sled, or other carriage of burden, or pleasure, or practice any other fraudulent means or device with the intent that the payment of any such toll or duty may be evaded or lessened, all and every person or persons, in all and every, or any of the ways or manners offending, shall, for every such offence, respectively forfeit and pay to the president and managers of such

turnpike road, or plank road, as the case may be, any sum not exceeding ten dollars, to be sued for and recovered, with costs of suit, before any justice of the peace, in like manner, and subject to the same rules and regulations as debts of a similar amount are by law sued for and recovered.

SECTION 20. That the legislature shall have power to alter the rate of toll fixed by this act; and the managers of any such company may lessen the same whenever they shall believe it necessary for the wellbeing of the company or the community at large.

SECTION 21. That the legislature hereby reserve the right to alter, amend, or repeal the charter and privileges granted by special act, as aforesaid, whenever in their opinion the same may be injurious to the citizens of this Commonwealth; in such manner, however, that no injustice shall be done to the corporators.

WILLIAM F. PACKER,

Speaker of the House of Representatives.

GEORGE DARSIE,

Speaker of the Senate.

APPROVED—The twenty-sixth day of January, one thousand eight hundred and forty-nine.

WM. F. JOHNSTON.

A SUPPLEMENT

To the act, entitled "An Act regulating turnpike and plank road companies," approved January the twenty-sixth, Anno Domini, one thousand eight hundred and forty-nine.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That* in all cases where any injury or damage shall be sustained by any owner or owners of such lands, tenements and enclosures as are referred to in the sixth section of the act to which this is a supplement, the said owner or owners shall be entitled to recover damages for such injury, which damages shall be assessed in the manner prescribed in the ninth section of said act.

SECTION 2. It shall be the duty of the freeholders by whom any assessment of damages shall be made under the foregoing section, or under the ninth section of the act to which this is a supplement, to reduce the said assessment to writing, signed by them, and within four days thereafter to deliver the same to any justice of the peace of the county wherein the land lies, who shall enter judgment thereon, from which said judgment either party may appeal within twenty days from the entry thereof, to the court of common pleas of the proper county, to be determined as other cases of appeal from judgments of justices of the peace.

SECTION 3. That if any person or persons shall wilfully and maliciously remove or destroy any part of such turnpike or plank road, or the property, buildings, or other works belonging to such company, or shall designedly and with evil intent place any obstruction on the line of said road, so as to endanger the safety of persons travelling on or over the same, such person or persons so offending shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be imprisoned in the county jail for a term not exceeding six months, at the discretion of the court.

SECTION 4. Any plank road company incorporated, subject to the provisions of the act to which this is a supplement, may from time to time, by a vote of the stockholders, at a meeting called for that purpose, increase the rates of toll allowed by said act, so much as in their opinion may be expedient: *Provided*, That the said tolls shall in no case be increased more than fifty per cent.: *And provided further*, That the legislature reserves the right to alter the rates of tolls imposed by any such plank road company, whenever the interest of the public demand it.

SECTION 5. That every turnpike and plank road company which shall have been incorporated since the passage, and made subject to the provisions of the act to which this is a supplement, shall be subject also to the provisions contained in this act: *Provided*, That the first, second and third sections of this act shall not apply to the Towanda or Wysauking and Wappansening plank road companies.

WILLIAM F. PACKER,

Speaker of the House of Representatives.

GEORGE DARSIE,

Speaker of the Senate.

APPROVED—The seventh day of April, one thousand eight hundred and forty-nine.

WM. F. JOHNSTON.

Pennsylvania, ss.

In the name and by the authority of the Commonwealth of Pennsylvania, WILLIAM BIGLER, Governor of the said Commonwealth, to all to whom these presents shall come, *sends greeting.*—

Whereas, An Act of the General Assembly of this Commonwealth, entitled, “An Act to incorporate the KENSINGTON AND FRANKFORD PLANK ROAD COMPANY,” Approved the 15th day of February, A. D. 1853, provides for the organization of a Company, by the name, style, and title of “The Kensington and Frankford Plank Road Company,” subject to the provisions and restrictions of an Act entitled “An Act regulating Turnpike and Plank Road Companies,” Approved the 26th day of January, A. D. 1849, by which Acts, the Governor of this Commonwealth is authorized and required to issue his Letters Patent in the manner and at the time therein specified: *And whereas*, the stipulations, conditions and things, in the said Acts directed to be performed, have in all respects been fully complied with.

Now Know ye, That in pursuance of the power and authority to me given by law, I, WILLIAM BIGLER, Governor of the said Commonwealth, do by these Presents, which I have caused to be made Patent, and sealed with the Seal of the State, create and erect the Subscribers to the Stock of the said Company, for the number of shares by them subscribed, viz.: J. Van Brunt, twenty-five shares; M. Gillingham, twenty-five; John M’Gregor, twenty-five; James Martin, twenty-five; N. F. Campion, fifty; C. Henry Garden, twenty; Minor Rogers, for self and A. Gaw, ten; W. P. Cooper, five; Henry C. Pratt, five; Levi Foulkrod, five; Robert Thornton, ten; H. Quicksall, per N. F. Campion, twenty-five shares, amounting to two hundred and thirty shares in all; and also those who shall afterwards subscribe into one body politic and corporate, in deed and in law, by the name, style, and title of “THE KENSINGTON AND FRANKFORD PLANK ROAD COMPANY,” and by the said name the Subscribers

shall have perpetual succession, and all the privileges and franchises incident to a corporation; and the said Subscribers, and those who shall afterwards subscribe, their successors and assigns, are generally to be invested with all the rights, powers and privileges, with full force and effect, and subject to all the duties, requisites, and restrictions, specified and enjoined in and by the said Acts of the General Assembly, and all other laws of this Commonwealth.



Given under my hand and the great Seal of the State, at Harrisburg, this twelfth day of May, in the year of our Lord one thousand eight hundred and fifty-three, and of the Commonwealth, the seventy-seventh.

WILLIAM BIGLER,

Governor of the Commonwealth.

By the Governor,

E. S. GOODRICH,

Dep. Secretary of the Commonwealth.

BY-LAWS

OF THE

KENSINGTON & FRANKFORD PLANK ROAD CO.

ARTICLE I.

The Stated Meetings of the Board of Managers shall be held on the second Thursday of each month, at which and all special meetings, seven members including the President, shall constitute a quorum.

ARTICLE II.

Any vacancy in the Board of Managers, occasioned by death, resignation, or otherwise, shall be filled by the Board until the next annual election.

ARTICLE III.

The President shall preside at all meetings of the Board, and shall appoint all standing and special committees; he shall sign all orders drawn on the Treasurer, for money directed to be paid by the Board, and shall sign all certificates of stock; he shall by virtue of his office, be a member of all standing committees; he shall have power to call special meetings of the Board when he shall deem it necessary, or at the request of five members thereof; during his absence, a President pro tem. shall be appointed and preside in his place; he shall also appoint the following committees, viz: An Executive Committee, to consist of five members, a Road Committee, to consist of five members, and a Committee on Repairs, to consist of three members.

ARTICLE IV.

The Executive Committee shall have the general supervision of the financial affairs of the Company, they shall examine and report quarterly the state of the funds; all bills and accounts shall be examined and approved by them before presented for payment.

ARTICLE V.

The Committee on Road, shall have the general superintendence of the same during its construction; they shall make and sign all contracts for the work, after the same shall have been approved by the Board; they shall at each stated meeting of the Board make report of the progress of the same, and suggest for consideration such matters as they shall judge necessary thereto; after the road shall be made and completed the duties of said committee shall cease and determine.

ARTICLE VI.

The Committee on Repairs shall have charge of the Road after it shall have been completed; whose duty it shall be to occasionally inspect the same, and attend to all repairs necessary.

ARTICLE VII.

The Secretary shall keep accurate minutes of the transactions of the Board; he shall have the custody of the seal of the Company, which he shall affix to all certificates of stock issued, and other instruments requiring the same, he shall keep a record of the amount, date, and number of each certificate of stock issued, and to whom issued; and when a transfer is made, cause a new certificate to be issued and a record to be made thereof, cancel and record the cancellation of the old one; he shall prepare a report to be submitted to the stockholders at the annual meeting in November, which report shall exhibit—

- 1st. The amount of certificates of stock issued.
- 2d. The amount of tolls received.
- 3d. The amount of dividends declared and uncalled for.
- 4th. The amount paid, and the amount due of the current expences of the Company.

He shall attest all orders drawn on the Treasurer, have charge of all papers and documents pertaining to his office, and perform all other duties which the Board of Managers shall from time to time direct, and shall deliver to his successor in office all books and papers, and other property of the Company. He shall receive such compensation for his services as the Board of Managers shall direct.

ARTICLE VIII.

The Treasurer shall receive and keep an accurate account of all money belonging to the Company. He shall prepare and submit to the Board, a quarterly statement of the funds of said Company, and oftener if required by the Board. He shall pay all orders drawn on him signed by the President and attested by the Secretary ; he shall give such security for the faithful application of the money in his hands belonging to the Company, as the Board of Managers shall direct.

ARTICLE IX.

The order of business shall be as follows ; when a quorum appears the President shall call the Board to order.

The minutes shall be read, considered and approved, unless there be a motion to amend.

Written communications read and disposed of.

Reports of Committees.

Treasurer's Report.

Deferred Business.

New Business.

ARTICLE X.

No alterations or amendment shall be made in these By-Laws, unless proposed at a stated meeting and considered at a subsequent stated meeting ; but any by-law may be suspended by the consent of not less than two-thirds of the whole board.